
TOXIC CHEMICAL RELEASE INVENTORY

ALTERNATE THRESHOLD FOR LOW ANNUAL REPORTABLE AMOUNTS; TOXIC CHEMICAL RELEASE REPORTING

INFORMATION COLLECTION REQUEST SUPPORTING STATEMENT

OMB CONTROL NO. 2070-0143
EPA ICR #1704.07

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ATTACHMENTS

- A RELEVANT STATUTES: EPCRA SECTION 313 AND PPA SECTION 6607
- B MAJOR REGULATIONS SPECIFIC TO FORM A CERTIFICATION STATEMENT:
40 CFR §372.10, §372.27 AND §372.95
- C FORM A CERTIFICATION STATEMENT (EPA Form #9350-2)
- D RESPONSE TO PUBLIC COMMENTS FOR ICR RENEWAL FOR THE FORM A
CERTIFICATION STATEMENT (EPA Form #9350-2)

1 IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title and Number of the Information Collection

Title: **Alternate Threshold for Low Annual Reportable Amounts; Toxic Chemical Release Reporting**

EPA ICR No. **1704.07**

OMB Control No. **2070-0143**

1(b) Short Characterization/Abstract

This Information Collection Request (ICR) covers the public reporting and record keeping requirements associated with Toxics Release Inventory (TRI) reporting based on an alternate threshold for facilities with low amounts of listed toxic chemicals in waste. EPA collects information from facilities and enters it into TRI under the authority of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 U.S.C. 11001 *et seq.*) and section 6607 of the Pollution Prevention Act (PPA) (42 U.S.C. 11071 to 11079). EPCRA section 313 requires owners or operators of certain facilities (i.e., facilities in listed Standard Industrial Classification (SIC) codes) manufacturing, processing, or otherwise using any of over 600 listed toxic chemicals and chemical categories (hereafter “listed toxic chemicals”) in excess of the applicable threshold quantities to report on their environmental releases and transfers of and waste management activities for such chemicals annually. Under section 6607 of the PPA, facilities must provide information on the quantities of the toxic chemicals in waste streams and the efforts made to reduce or eliminate those quantities. A covered facility must file a separate form for each toxic chemical manufactured, processed or otherwise used in excess of the reporting thresholds established in section 313(f)(1).

This ICR is for the Form A Certification Statement. EPA established an alternate threshold for a category of facilities with low amounts of a listed toxic chemical in wastes. A facility that meets the section 313 reporting thresholds, but estimates that the total annual reportable amount of the listed toxic chemical does not exceed 500 pounds per year, can take advantage of the alternate manufacture, process or otherwise use thresholds of 1 million pounds per year for that listed toxic chemical, provided that certain conditions are adhered to. Each qualifying facility that chooses to apply this alternate manufacture, process or otherwise use threshold must file a Form A Certification Statement certifying that they met the condition of the alternate threshold for one or more chemicals, in lieu of completing a Form R for each listed chemical for which the facility exceeded statutory thresholds. The Form A Certification Statement is submitted to both the EPCRA reporting center and the designated state recipient in the same manner that the Form R is submitted. The Form A Certification Statement provides a signed statement that the sum of the amount of the listed toxic chemical or chemicals in wastes did not exceed 500 pounds for this reporting year, and that the chemical(s) was manufactured,

processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year.

Responding to this information collection requires determining whether a chemical is eligible for certification under the alternate threshold, and completing the Form A Certification Statement. A single Form A Certification Statement may contain as many listed toxic chemicals as met the conditions of the alternate threshold.

Respondent costs are related to the number of chemicals certifications reported on the Form A Certification Statements and the loaded hourly rates of the personnel who complete the reporting activities. The total reporting burden is estimated to average 84.1 hours for a facility submitting a single certification statement under EPCRA section 313 for the first time. (This includes the time required for rule familiarization, calculations/certification, Form A Certification Statement completion, and recordkeeping/submission.) The total reporting burden is estimated to average 13.7 hours for a facility submitting a single certification statement under EPCRA section 313 in subsequent reporting years. (This includes the time required for calculations/certification, Form A Certification Statement completion, and recordkeeping/submission.) By comparison, the average time required for calculations, form completion, and recordkeeping/submission for Form R is estimated to average 19.5 hours per form. Thus, for a facility filing a Form A Certification Statement for a single chemical, the alternate threshold yields an average savings of 5.8 hours in subsequent reporting years.

2 NEED FOR AND USE OF THE COLLECTION

2(a) Need/Authority for the Collection

Section 313 of EPCRA, 42 U.S.C. 11023, requires certain facilities that manufacture, process, or otherwise use listed toxic chemicals in excess of the applicable threshold quantities to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also began reporting source reduction and recycling data for listed chemicals, pursuant to section 6607 of the Pollution Prevention Act, 42 U.S.C. 13106. Copies of 42 U.S.C. 11023 and 13106 are included in Attachment A.

Each covered facility must file a separate report for each listed chemical manufactured, processed or otherwise used in excess of the reporting thresholds established in section 313(f)(1). EPA has authority to revise these threshold amounts pursuant to section 313(f)(2); however, such revised threshold amounts must obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to section 313. A revised threshold may be based on classes of chemicals or categories of facilities.

This ICR is for the Form A Certification Statement. EPA established an alternate threshold under EPCRA section 313(f)(2) for a category of facilities with low amounts of a listed toxic chemical in wastes. A facility that meets the appropriate reporting thresholds, but estimates that the total amount of the chemical in waste does not exceed 500 pounds per year, can take advantage of alternate manufacture, process, or otherwise use thresholds of 1 million pounds per

year for that chemical, provided that certain conditions are met. A facility that chooses to apply the alternate threshold must submit an EPA Toxic Chemical Release Inventory Form A Certification Statement (EPA Form #9350-2). EPA's regulations implementing TRI reporting are codified at 40 CFR part 372. A copy of the sections specific to the Form A Certification Statement are included in Attachment B.

The information being collected on the Form A Certification Statement is necessary to fulfill EPA's responsibilities under EPCRA section 313(f)(2). A Form A Certification Statement addresses the statutory mandates and the public's right-to-know while allowing regulatory relief for facilities having lower volumes of chemicals in wastes. A Form A Certification Statement provides appropriate information relating to the location of facilities manufacturing, processing or otherwise using these chemicals, that the chemicals are being manufactured, processed or otherwise used at current reporting thresholds, and that the sum of amounts of the chemical in waste did not exceed 500 pounds for that reporting year. The requirement to submit a Form A Certification Statement fosters continued attention to chemical management practices and provides a locational tool vital to any compliance program or other interested party. It is necessary to receive some type of specific indication that a facility is taking advantage of the alternate threshold annually to assist in any compliance monitoring and enforcement efforts.

2(b) Practical Utility/Users of the Data

The Paperwork Reduction Act, 44 U.S.C. 3502(11), states that "the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion." EPA has demonstrated that it can process and utilize TRI information in a timely and useful fashion, as well as make the information available in a timely fashion for a variety of further useful purposes. This information is collected annually and is subsequently disseminated within a year of its receipt. Further information on Agency activities is summarized in Section 4(a).

According to EPCRA section 313(h), the data submitted in the forms are intended to "inform persons about releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards; and for other similar purposes." The purpose of the Agency's collection of this information is therefore to facilitate the availability of this information to the public.

TRI data made available as a result of this information collection is used by many different individuals and organizations, including concerned citizens, environmental and public interest groups, journalists, government agencies, the financial and business community, the regulated community, and educational and research institutions. Government agencies, researchers and environmental and public interest groups use data collected under EPCRA section 313 to produce national, regional, state and local level reports. Governments use the data to set priorities, target

voluntary initiatives, and evaluate the development of regulations. Citizens and local interest groups use TRI data to assess the status of toxic chemicals in their community and to determine priorities for concern. Investment analysts use TRI data to provide recommendations to clients seeking to make investments on an environmental basis. Insurance companies and lenders look to TRI data as an indication of potential environmental liabilities. Many reporting companies use TRI data in preparing annual environmental reports, similar to annual reports on financial performance. The ICR for Form R (OMB #2070-0093, EPA #1363) provides specific examples of some of the actual uses of TRI data.

The Form A Certification Statement provides information that a section 313 listed chemical is being manufactured, processed or otherwise used at threshold levels specified in 40 CFR part 372.25. Through the use of the Form A Certification Statement, the individuals and groups described above will continue to have knowledge that the sum of the amounts in waste for a particular facility did not exceed a specified amount for the chemical for which the alternate threshold was applied.

3 NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Non-Duplication

The information requested by the Form A Certification Statement represents a subset of information requested by Form R. To the extent that this reporting option is used, corresponding data will not be reported under Form R. Information comparing TRI reporting to information available under other statutes is available in the ICR for Form R (OMB #2070-0093, EPA #1363).

3(b) Increasing Public Awareness

EPA has emphasized the Form A Certification Statement during training sessions, directly contacted potentially eligible facilities, and made some modifications to the reporting package to make the Form A Certification Statement easier to identify and use. These actions, in addition to the additional time for which the Form A Certification Statement option has been available, have increased the level of use of the Form A Certification Statement.

3(c) Effects of Less Frequent Collection

Section 313 requires annual reporting. Section 313(i) permits EPA to modify the reporting frequency by rulemaking, after submitting a notification to Congress. As Form A Certification Statements are required to be submitted on or before July 1 following the year in which the facility's activities occur, and as the national data are available from EPA within a year after EPA receives data, a less frequent collection of information would delay the availability of

the data to the public. Since TRI represents the best available database tracking multimedia releases, transfers and other handling of listed toxic chemicals, changes in reporting frequency would have profound impacts on the quality and value of the data for purposes of planning, establishing baselines and tracking performance.

EPA's Office of Enforcement and Compliance Assurance (OECA) has stressed the need to continue to collect information on an annual basis that a facility is manufacturing, processing, or otherwise using a listed section 313 chemical in threshold amounts set out in 40 CFR part 372.25. Submission of the Form A Certification Statement allows EPA and other data users to identify facilities applying the alternate threshold. In order to target facilities effectively and efficiently for compliance inspections, EPA must be able to distinguish between facilities that did not report under EPCRA section 313 because they took advantage of this regulatory amendment, and facilities that did not report for other reasons.

In addition, the State and many of the Regional TRI program offices have submitted comments that echo enforcement concerns raised by OECA to the effect that the submission of a Form A Certification Statement is "paramount" to the ability of EPA and states to readily verify compliance with the regulation or to enforce against violations. Additionally, a report may provide sufficient information to citizens and interest groups and prevent unnecessary legal actions that might otherwise be pursued if there was a complete absence of information for a given facility.

By requiring the Form A Certification Statement on an annual basis, any compliance assistance or enforcement program, as well as other interested parties, are able to determine that the facility is continuing to manufacture, process, or otherwise use a listed section 313 chemical and that the amounts associated with these activities are in excess of current reporting thresholds.

3(d) General Guidelines

This information collection is consistent with the requirements of 5 CFR 1320.6, except that respondents may be required to submit information that is confidential. Specifically, reporting facilities are required to identify the chemical for which reports are submitted. Respondents can, however, claim the chemical identity as a trade secret, although they must provide a generic name as part of the information that is made available to the public. EPA securely stores and maintains the true identity of the chemical. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

EPA actively encourages the use of automated techniques, most notably PC-based report generating programs produced both by the Agency and by the private sector and other submissions on magnetic media. EPA recognizes that not all reporting facilities are able to or are interested in investing the time and funds necessary to employ such automated techniques. The final decision on how to report is ultimately the reporting facility's.

3(e) Confidentiality

Respondents may designate the specific chemical identity of a substance as a trade secret. Procedures for submission and review of trade secret claims under section 313 are set forth in 40 CFR part 350 and are covered by another EPA ICR (EPA ICR #1428; OMB #2050-0078).

3(f) Sensitive Questions

This collection does not request any sensitive information.

4 THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents/SIC Codes

A facility must report to TRI if it meets all three of the following criteria:

- (1) Has a primary Standard Industrial Classification (SIC) code covered by the regulations;
- (2) Has 10 or more full-time employees (or the hourly equivalent of 20,000 hours); and
- (3) Manufactures, processes, or otherwise uses any of the listed toxic chemicals or chemical categories above the applicable threshold. Currently, the thresholds are 25,000 pounds for chemicals manufactured (including imported) or processed, and 10,000 pounds for chemicals otherwise used.

The industries currently subject to reporting under EPCRA section 313 include SIC major groups 10 (metal mining), except SIC code 1011, 1081, and 1094; 12 (coal mining), except SIC code 1241; 20 through 39 (manufacturing); as well as industry codes 4911, 4931, 4939 (electricity generating facilities), limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce; 4953 (refuse systems), limited to facilities regulated under RCRA Subtitle C; 5169 (chemicals and allied products wholesaling, not elsewhere classified); 5171 (petroleum bulk stations and terminals); and 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis). Qualifying federal facilities also report to TRI as a result of Executive Orders 12856 and 13148.

Under the final PBT (Persistent Bioaccumulative Toxic Chemicals) Rule, published October 29, 1999, all PBT chemicals are excluded from eligibility for alternate threshold reporting (i.e., the Form A Certification Statement cannot be used to report PBT chemicals).

With the exception of the PBT chemicals, the Form A Certification Statement can be

submitted by those facilities that would otherwise be required to submit a Form R, but determine that they are eligible to apply the alternate threshold based on the sum of amounts in waste. Therefore, the alternate threshold does not bring additional facilities into EPCRA section 313 regulation that are not already part of the regulated community.

4(b) Information Requested

(I) Data Items

The following information must be reported on a Form A Certification Statement pursuant to 40 CFR part 372:

- (1) Reporting year.
- (2) An indication of whether the chemical identified is being claimed as trade secret.
- (3) Chemical name or names and CAS number(s) (if applicable) of the chemical(s), or the category(ies) or the generic chemical name(s).
- (4) Signature of a senior management official certifying the following: pursuant to 40 CFR part 372.27, “hereby certify that to the best of my knowledge and belief for the toxic chemical listed in this statement, the sum of reportable wastes did not exceed 500 pounds for this reporting year and that the chemical was manufactured, or processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year.”
- (5) Date signed.
- (6) Facility name and address.
- (7) Mailing address of the facility if different than (6).
- (8) Toxic chemical release inventory facility identification number if known.
- (9) Name and telephone number of a Technical Contact.
- (10) The four-digit SIC codes for the facility or establishments in the facility.
- (11) Latitude and longitude coordinates for the facility.
- (12) Dun and Bradstreet Number of the facility.
- (13) EPA Identification Number(s) (RCRA I.D. Number(s) of the facility).
- (14) Facility NPDES Permit Number(s).
- (15) Underground Injection Well Code (UIC) I.D. Number(s) of the facility.
- (16) Name of the facility's Parent Company.
- (17) Parent Company's Dun and Bradstreet Number.

These 17 elements are a subset of the information collected on Form R. Beyond the change to element 3, which allows for multiple chemicals to be reported on a single Form A Certification Statement, the only element unique to the Form A Certification Statement is element 4. Element 4 of the Form A Certification Statement corresponds to the certification statement on Form R and represents a signed statement by a facility owner/operator or senior management official. Unlike Form R, the signed statement on the Form A Certification Statement certifies that the sum of amounts of the listed chemical in waste did not exceed 500 pounds and that the amounts manufactured, or processed, or otherwise used did not exceed 1 million pounds for that

year.

A copy of the Form A Certification Statement (EPA Form #9350-2) is included as Attachment C. The most recent version of the Toxic Chemical Release Inventory Reporting Forms and Instructions can be found online at the TRI website: www.epa.gov/tri.

Justification for elements requested:

Elements 1 through 6 relate to the conditions being met in order to claim eligibility for the submission of a Form A Certification Statement. These elements are essential in meeting the statutorily mandated requirement of continuing to capture a substantial majority of releases for each listed EPCRA section 313 chemical.

Elements 7 through 17 are requested for identification purposes. Of these, elements 7 through 9 are necessary to determine which facility is claiming the alternate threshold along with the information needed to contact the claimant. Elements 10 through 17 are requested in order to cross-reference the facility and level of activity being certified with other reporting systems in addition to more accurately tracking the facility's TRI reporting history. These data elements are essential for enforcement purposes and have proven to be useful for cross program multimedia investigations.

(ii) Respondent Activities

The regulated community is expected to comply with the reporting requirements by completing the Form A Certification Statement and mailing it to EPA and the appropriate state agency. Section 313(g)(2) provides that a "facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or where data are not readily available, reasonable estimates of the amounts involved." Respondents are not required to develop new information.

The same level of assistance presently available to Form R respondents is available to those facilities applying the alternate threshold and completing the Form A Certification Statement. Instructions and guidance documents are available, and a toll-free hotline is available to handle general and technical inquiries from the regulated community. The following steps will be completed by a facility using the alternate threshold:

- Compliance Determination
- Calculations (Compliance)
- Completion of Form (Disclosure)
- Substantiation of a Trade Secret Claim (not performed by all respondents)
- Record keeping
- Supplier Notification (not performed by all respondents)
- Petition Submission (not a requirement)

Compliance Determination. Facilities must first determine if they are eligible to apply the alternate threshold, and/or provide supplier notification. The determination is based on the SIC code(s) for the facility, the number of full-time employees or equivalents, the chemicals manufactured, processed or otherwise used at the facility, and the quantity of those chemicals.

Calculations (Compliance). A facility has to calculate the annual reportable amount for a chemical in order to determine if the facility is eligible to apply the alternate threshold. The annual reportable amount is calculated as the combined total of the amounts released at the facility (including disposal), treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycling operations, combusted for the purpose of energy recovery at the facility, and transferred from the facility to off-site locations for the purpose of recycling, energy recovery, treatment, or disposal. In addition, the facility must also determine that it did not manufacture, process, or otherwise use more than 1 million pounds of the listed chemical.

Completion of Form (Disclosure). Each facility taking advantage of the alternate threshold must complete the Form A Certification Statement described under section 3(b)(I).

Substantiation of a Trade Secrecy Claim. Respondents wanting to make a trade secrecy claim for the chemical identity should refer to documentation requirements discussed in the Trade Secrecy ICR for EPCRA (EPA #1428, OMB #2050-0078).

Record keeping. Each facility taking advantage of the alternate threshold is required to maintain records for a period of three years from the date of the submission of the Form A Certification Statement, and to make them available upon request. These records provide substantiation that an appropriate threshold determination was made and that the sum of amounts in total waste did not exceed 500 pounds for that chemical for that reporting year. This documentation is necessary for any compliance effort verifying the claims made by a facility taking advantage of the alternate threshold. Facilities must maintain a copy of each Form A Certification Statement and Form R submitted, as well as the documents, calculations, and other information they collected for developing the reports submitted.

Supplier Notification. No additional supplier notification requirements are associated with the Form A Certification Statement.

Petition Submission. No additional procedures relating to petition submissions are required by the Form A Certification Statement.

5 THE INFORMATION COLLECTED--AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT.

5(a) Agency Activities

EPA activities for this ICR parallel requirements established for reporting TRI releases on Form R (OMB #2070-0093, EPA #1363), approved March, 2003, including:

- Assistance to Respondents
- Data Management
- Data Processing and Quality Control
- Systems Maintenance and Operation
- Making the Data Available to the Public
- List Revisions and Petition Reviews
- Trade Secrecy Reviews

Assistance to Respondents. Assistance to respondents is offered in the same manner as described by the Form R ICR (OMB #2070-0093, EPA #1363). These assistance efforts extend to facilities for completion of a Form A Certification Statement.

Data Processing and Quality Control. Once a Form A Certification Statement is submitted and received by the EPCRA Reporting Center, the information is recorded into the TRIS Oracle database. If submitted electronically (floppy disk), the information is automatically read into TRIS; if the Form A Certification Statement was submitted in hardcopy, the information is manually keyed into TRIS. Automated data quality checks and field verifications are built into the electronic reporting software (ATRS - Automated TRI Reporting Software). Additional data quality checks, field verifications, and reconciliations are performed sequentially once the electronic submission is read into TRIS or for the first time once the hardcopy is completely keyed in.

Systems Maintenance and Operations. The TRIS database is maintained on an Oracle server on an isolated, secure local area network at the EPCRA Reporting Center. Standard database management activities are routinely performed to maintain data and system integrity. Tape backups of the TRIS database are made nightly.

Availability of the Data. In accordance with statute, a copy of the database is publicly available in electronic format using the Agency's internet site (the data is also maintained on the Agency's intranet site). Users can access the data using either Envirofacts or TRI Explorer. Both tools allow the user to view individual chemical submissions, all submissions for a given facility, or summary information by Zip Code, city, county, state, EPA Region, or nationally. Searches can be conducted in numerous ways, including on a chemical basis or by industry SIC code.

In addition to the public electronic database, EPA has also made the TRI information

available through a variety of other electronic and non-electronic means. EPA prepares a national data release report that describes the annual data received and presents extensive summary information in text, charts, and graphics. Electronic versions of the database are available in .dbf and comma delimited format from the Agency's web site or NTIS. Versions of the Oracle TRIS database are available upon special request.

Trade Secrecy Reviews. A respondent may claim a chemical as trade secret on the Form A Certification Statement in the same manner as when filing a Form R. When a respondent claims a chemical identity as a trade secret, a substantiation must be included. Respondents often claim trade secret status on Form R but do not provide substantiation. In those cases, EPA must review the claim and contact the respondent to determine the true intent. In many cases, the trade secret claim was not intended and no substantiation is made. Trade Secrecy reviews, including the costs to EPA, are discussed in greater detail in the ICR for the Trade Secrecy Rule for EPCRA (EPA #1428, OMB #2050-0078).

5(b) Collection Methodology and Management

The Form A Certification Statement can be submitted using EPA's magnetic media reporting program, and EPA encourages the submission of Form A Certification Statements electronically. The use of electronic reporting serves to reduce the reporting burden on industry. It also reduces both the cost and the time required for EPA to enter, process, and make the data available. For the 2000 TRI reporting cycle, approximately 80% of Form Rs and Form A Certification Statements were submitted electronically.

5(c) Small Entity Flexibility

Small entities, as defined by the statute, are exempt from reporting. In addition, the alternate threshold is advantageous to those entities which might be classified as small under other definitions. The range established by the 500 pound category may apply proportionally higher to smaller entities, thereby resulting in greater regulatory relief for these facilities. EPA considered a number of different threshold levels when it promulgated this rule. This alternate threshold was chosen because it best balanced burden reduction with the need for data and information, and is consistent with the requirements of EPCRA section 313.

Furthermore, EPA has prepared various materials to assist facilities in reporting to TRI, thereby lowering the cost of reporting. These materials include detailed reporting instructions, a question and answer document, magnetic media reporting, general technical guidance, and industry specific guidance documents. In addition, EPA maintains a toll-free hotline to answer regulatory and technical questions to assist facilities.

Through the development of the Form A Certification Statement (in conjunction with the petition process, electronic reporting, efforts to review the original list of TRI chemicals to determine whether any of those chemicals do not meet the listing criteria, and other mechanisms),

EPA has reduced, to the extent practicable and appropriate at this time, the burden on persons providing the information being collected under EPCRA section 313. EPA continues to work with affected parties to identify opportunities for further burden reduction.

5(d) Collection Schedule

Section 313 requires annual reporting for the Form R. The respondent and Agency schedule of activities associated with the collection and processing of information under EPCRA section 313 is unchanged for the alternate threshold. Whether making a Form R submission or submitting a Form A Certification Statement based on the alternate threshold, respondents must submit their forms to EPA for any given reporting year on or before July 1 of the succeeding year.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6(a) Estimating Respondent Burden

This section presents the burden of this information collection activity on respondents in terms of the time required for facility personnel to perform the activities outlined in Section 4 of this document. These burden estimates are based on previous ICRs and economic analyses, respondent experience as reflected in comments to EPA and other parties, and information acquired through site visits and telephone interviews.

The burden to respondents is estimated for Form A Certification Statement requirements. Burden estimates are developed for the compliance activities and then multiplied by the number of facilities or reports (as appropriate) to estimate the total burden to respondents. The burden estimates used by EPA are national average values. As with any average, some facilities will be above the average, and others will be below it. Large, complex facilities may require more than the average time to comply. However, there are many other facilities subject to the rule that are not large or complex. Therefore, EPA believes that its burden estimates represent reasonable national averages. The tasks associated with the alternate threshold reporting include report calculations and certification, form completion, and recordkeeping and submission.¹ Specifically:

- **Rule Familiarization:** Facilities that are reporting under section 313 for the first time must read the reporting package and become familiar with the reporting requirements. This includes the time needed to review instructions, and the time needed to train personnel to be able to respond to a collection of information.
- **Calculations/Certification:** Facilities must gather data and perform calculations to determine eligibility for the alternate threshold. This includes the time to search data sources, and the time to complete and review the information.
- **Form Completion:** Facilities must complete the form. Facilities use a single Form A Certification Statement to submit certifications for all chemicals that are eligible for the alternate threshold.
- **Recordkeeping/Submission:** Facilities must maintain recordkeeping systems and submit the completed Form A Certification Statement to EPA and the states.

Each of these activities is described in more detail below.

¹ Facilities must also determine whether they are within a covered Standard Industrial Classification (SIC) code; have the equivalent of 10 or more full-time employees; and manufacture, process or use any of the listed toxic chemicals above the threshold quantity. The time required for compliance determination at all facilities in covered SIC codes with 10 or more employees is already accounted for in the Form R information collection request (OMB #2070-0093).

Rule Familiarization

If a facility will be reporting under the section 313 requirements for the first time, facility staff must review and comprehend the reporting requirements. At a minimum, this effort will involve reading the instructions to the Toxic Release Inventory Reporting Forms, however, it may also involve consulting EPA guidance documents, attending a training course, and/or calling the EPCRA technical hotline. The cost associated with rule familiarization occurs only in the first year that a facility becomes subject to reporting. In subsequent years, staff are assumed to be familiar with the requirements that apply to their facility. Thus, the facility would no longer bear this cost. Similarly, facilities that already report on one or more existing TRI chemicals will not incur a rule familiarization cost.

Calculations/Certification

To certify that a listed toxic chemical qualifies for the alternate threshold, a facility must estimate its annual reportable amount and the amount manufactured, processed, or otherwise used. If a facility's annual reportable amount for a listed toxic chemical is 500 pounds or less, the facility is eligible to apply the alternate threshold of 1 million pounds manufactured, processed or otherwise used.

Recordkeeping/Submission

After a facility has certified a listed toxic chemical as eligible for the alternate threshold, it incurs additional labor costs for recordkeeping and submission. Recordkeeping allows a facility to use the information in making calculations in subsequent years, and as documentation in the event it receives a compliance audit. Facilities may maintain such records as estimation methodology and calculations, engineering reports, inventory, incident and operating logs, and any other supporting materials needed to document eligibility for the alternate threshold. Facilities must transmit Form A Certification Statements to EPA and State authorities.

Form A Certification Statement Completion

If a facility is eligible to apply the alternate threshold, it must complete the Form A Certification Statement. The facility completes one Form A Certification Statement that contains certifications for all the listed toxic chemicals to which it is applying the alternate threshold.

Respondent Burden

The calculations needed to determine eligibility for the Form A Certification Statement are a subset of the calculations necessary to complete Form R. Thus, the time required to calculate the annual reportable amount was estimated in previous ICRs by aggregating EPA's estimates of the time required to calculate each of the sections of Form R that are relevant to determining annual reportable amount. According to this estimate, calculations for a Form A Certification

Statement take approximately 64 percent of the time of calculations for the Form R.²

For the purposes of this ICR, first-year reporting burden hour estimates have not been modified from previous ICRs. However, based on EPA's recent revision to the unit burden estimates for Form R calculations, EPA now estimates that calculating an annual reportable amount for a Form A Certification Statement will require an average of 9.3 hours for each listed toxic chemical that the facility must report under EPCRA section 313.³ EPA's estimates by activity and labor category are shown in Table 1.

Table 1
Average Annual Burden Hour Estimates for Form A

Activity	Management	Technical	Clerical	Total Hours
First-year activities				
Rule Familiarization - first-time filers	12	22.5	0	34.5
Calculations/ Certification - first-time filers	16.3	26	2.2	44.5
Form A Completion - first-time filers	0.15	1.8	0.15	2.1
Recordkeeping/Submission	0	2.4	0.6	3
Total	28.45	52.7	2.95	84.1
Subsequent year activities				
Calculations/ Certification - subsequent year filers	3.4	5.5	0.4	9.3
Form A Completion - subsequent year filers	0.1	1.2	0.1	1.4
Recordkeeping/Submission	0	2.4	0.6	3
Total	3.5	9.1	1.1	13.7

In April 2002, EPA contacted nine facilities that file Form A Certification Statements to gather information on the typical facility level burden associated with using the reporting form. The total facility level burden estimates were reported in ranges. Depending on whether the midpoint or maximum of the range was used, the average of facility-level burden hours per chemical certification was reported at 11.2 to 15.5 hours. EPA's revised estimate of 13.7 hours for a facility certifying one chemical on a Form A Certification Statement falls within this range.⁴

² USEPA/OPPT, *Regulatory Impact Analysis of the EPCRA Section 313 Alternate Threshold Final Rule*, November 18, 1994.

³ USEPA/OEI, *Estimates of Burden Hours for Economic Analyses of the Toxics Release Inventory*, June 10, 2002.

⁴ USEPA/OEI, *Estimates of Burden Hours for Economic Analyses of the Toxics Release Inventory*, June 10, 2002. Note that one of the 9 facilities reported a much higher per chemical burden than the other 8 facilities. Without this outlier, the average of facility-level burden hours per chemical certification would be 3.8 to 4.9 hours per chemical certified.

6(b) Estimating Respondent Costs

Respondent costs are related to the number of chemicals certifications reported on the Form A Certification Statements and the loaded hourly rates of the personnel who complete the reporting activities. The total reporting burden is estimated to average 84.1 hours for a facility submitting a single certification statement under EPCRA section 313 for the first time. (This includes the time required for rule familiarization, calculations/certification, Form A Certification Statement completion, and recordkeeping/submission.) The total reporting burden is estimated to average 13.7 hours for a facility submitting a single certification statement under EPCRA section 313 in subsequent reporting years. (This includes the time required for calculations/certification, Form A Certification Statement completion, and recordkeeping/submission.) By comparison, the average time required for calculations, form completion, and recordkeeping/submission for Form R is estimated to average 19.5 hours per form. Thus, for a facility filing a Form A Certification Statement for a single chemical, the alternate threshold yields an average savings of 5.8 hours in subsequent reporting years.

For a facility that certifies multiple chemicals on a Form A Certification Statement, the burden per reported chemical is reduced. An average of 2.4 chemicals per facility were reported to EPA using Form A Certification Statements for the 2000 reporting year. About 50 percent of the facilities using the Form A Certification Statement reported on one chemical, another 20 percent reported on two chemicals, 15 percent on three chemicals, and the remaining 15 percent of facilities reported on 4 or more chemicals. The typical per facility burden and cost for certifying one to three chemicals is shown in Table 2. The loaded hourly rates used in Table 2 correspond with the loaded hourly rates for the relevant labor categories in the Form R ICR renewal.⁵

⁵ USEPA/OEI, *Wage Rates for Economic Analyses of the Toxics Release Inventory Program*, June 10, 2002. Note that the wage rates used in this supporting statement have been updated to June 2003. The loaded hourly rates are \$52.91 for management labor, \$45.81 for technical labor, and \$24.27 for clerical labor.

Table 2
Annual Burden and Cost per Facility (Assuming 1, 2, or 3 Chemicals)

Activity	Number of Chemicals Reported on Each Form A					
	1 Chemical		2 Chemicals		3 Chemicals	
	hours	cost	hours	cost	hours	cost
First-year filers						
Rule Familiarization - first-time filers	34.5	\$1,666	34.5	\$1,666	34.5	\$1,666
Calculations/ Certification - first-time filers	44.5	\$2,107	89	\$4,214	133.5	\$6,321
Form A Completion - first-time filers	2.1	\$94	2.1	\$94	2.1	\$94
Recordkeeping/Submission	3	\$125	6	\$250	9	\$375
Total per Facility	84.1	\$3,992	131.6	\$6,224	179.1	\$8,456
Average per Chemical	84.1	\$3,992	65.8	\$3,112	59.7	\$2,819
Subsequent year filers						
Calculations/ Certification - subsequent year filers	9.3	\$442	18.6	\$884	27.9	\$1,326
Form A Completion - subsequent year filers	1.4	\$63	1.4	\$63	1.4	\$63
Recordkeeping/Submission	3	\$125	6	\$250	9	\$375
Total per Facility	13.7	\$630	26	\$1,197	38.3	\$1,764
Average per Chemical	13.7	\$630	13	\$599	12.8	\$588

6(c) Estimating Agency Burden and Cost

EPA will incur costs to process the Form A Certification Statements, perform outreach and training, disseminate information, develop policy and guidance, respond to petitions, and perform compliance and enforcement audits. EPA measures its resource requirements in terms of the number of forms that must be processed. EPA employees (as measured by full time equivalents, or FTEs) and extramural costs are separated into a fixed component and an variable component. The fixed component of EPA FTEs and costs is described in the Form R ICR (OMB #2070-0093). The variable component is the amount that varies depending on the number of forms. The variable component reflects total extramural data processing costs divided by the total number of reports processed in the 2000 reporting year. EPA expends \$26 in variable costs for each form processed. A total of 5,000 Form A Certification Statements are expected to be filed. Thus, the total annual burden to EPA is estimated to be \$130,000 in variable costs for the Form A Certification Statement.

6(d) Bottom Line Burden Hours and Costs

Total respondent burden is related to the number of chemicals certifications reported on the Form A Certification Statements and the number of facilities that file Form A Certification Statements. The number of respondents and responses is based on the actual numbers of facilities making chemical certifications on Form A Certification Statements in the latest reporting year. As shown in Table 3, the number of facilities using the Form A Certification Statement has increased

since 1995, the first year the form was available. Starting in 1998, non-manufacturing industries began reporting to TRI using both the Form A Certification Statement and Form R. Also starting in 1998, respondents were allowed to make multiple chemical certifications on a single Form A Certification Statement. Note that electronic submissions allow some companies to report for multiple facilities on a single Form A Certification Statement, which is why there are fewer facilities than Form A Certification Statements. Note also that facilities can file both Form Rs and Form A Certification Statements, so the total number of TRI reporting facilities is less than the sum of facilities filing Form Rs and facilities filing Form A Certification Statements. For the purposes of bottom line burden hours and costs in this ICR supporting statement, EPA is using the number of facilities and responses in reporting year 2001 rounded to the next highest hundred or thousand as appropriate (in this case, 5,200 facilities and 5,000 responses on 13,000 chemicals).

Table 3
Usage of Form A vs. Form R

Reporting Year	Form A			Form R	
	Facilities	Responses	Chemicals	Facilities	Responses
1994	N/A	N/A	N/A	23,663	77,941
1995	3,231	6,865	6,865	21,373	70,749
1996	3,618	7,720	7,720	20,757	67,713
1997	5,185	10,947	10,947	19,594	64,148
1998	5,822	5,627	13,942	21,089	75,978
1999	5,444	5,085	12,894	20,167	72,450
2000	5,451	5,121	13,209	20,669	78,304
2001	5,136	4,929	12,295	22,359	83,218

In an effort to reduce reporting burden, EPA has developed intelligent software for the desktop computer called TRI-Made Easy (TRI-ME) to assist facilities in determining and completing their reporting obligations. For the purposes of this ICR, EPA uses an estimate of 85 percent of Form A reports being filed using TRI-ME. For reporting year 2001, 78 percent of Form A Certification Statement responses were received electronically, and 36 percent of Form A Certification Statement responses were filed using TRI-ME. In the supporting statement for the previous ICR renewal, EPA had predicted a 40 percent TRI-ME adoption rate for reporting year 2001, which is very close to the actual level. Preliminary results from reporting year 2002 show 77 percent of the chemicals on Form A responses were reported electronically, and 86 percent of the chemicals on Form A responses were reported using TRI-ME (TRI-ME output for submission can be paper or electronic). For the purposes of this ICR, EPA uses an estimate of 85 percent of chemicals reported on Form As being reported using TRI-ME.

Based on responses from facilities that tested TRI-ME in reporting year 2000 and facilities that used TRI-ME in 2001, EPA expects that TRI-ME will result in a burden reduction of 15

percent.⁶ For the Form A Certification Statement ICR, this burden reduction estimate is applied to the activities of Calculations/Certification and Recordkeeping/Submission.

Total respondent burden and cost for the Form A Certification Statement, including an adjustment for TRI-ME, is shown in Table 4.⁷

Table 4
Total Annual Respondent Burden and Cost

ACTIVITY	Hours	Number of Facilities	Number of Chemicals	Total Burden
Rule Familiarization - First-year filers	34.5	244	N/A	8,432
Calculations/Certification - First-year filers	44.5	N/A	585	26,033
Form A Completion - First-year filers	2.1	244	N/A	513
TRI-ME Reduction - First-year filers	(7.1)	N/A	497	(3,530)
Calculations/Certification - Subsequent year filers	9.3	N/A	12,415	115,460
Form A Completion - Subsequent year filers	1.4	4,956	N/A	6,938
TRI-ME Reduction - Subsequent year filers	(1.8)	N/A	10,553	(18,995)
Recordkeeping/Submission - All filers	3	N/A	13,000	39,000
Total Burden				173,850
ACTIVITY	Cost	Number of Facilities	Number of Chemicals	Total Cost
Rule Familiarization - First-year filers	\$1,666	244	N/A	\$407,170
Calculations/Certification - First-year filers	\$2,107	N/A	585	\$1,232,595
Form A Completion - First-year filers	\$94	244	N/A	\$22,974
TRI-ME Reduction - First-year filers	(\$335)	N/A	497	(\$166,579)
Calculations/Certification - Subsequent year filers	\$442	N/A	12,415	\$5,487,430
Form A Completion - Subsequent year filers	\$63	4,956	N/A	\$312,203
TRI-ME Reduction - Subsequent year filers	(\$85)	N/A	10,553	(\$897,005)
Recordkeeping/Submission - All filers	\$125	N/A	13,000	\$1,625,000
Total Cost				\$8,023,788

Total annual respondent burden and cost for completing the Form A Certification Statement are estimated at 173,850 burden hours with a loaded labor cost of approximately \$8 million per year. Total EPA cost for processing the Form A Certification Statements is estimated at \$130,000 per year.

⁶ EPA contacted 9 TRI-ME users in 2002 and 9 TRI-ME users in 2003 to obtain estimates of the burden reduction attributable to TRI-ME. The burden reduction estimate is based on the average burden reduction reported by first-time users of TRI-ME.

⁷ Between RY1994 and RY2001, there have been three reporting years with no major programmatic changes. Based on reporting for 1996, 1997, and 1999, the average rate of facilities that file using new TRIFIDs is 4.7%. These facilities filed an average of 4.5% of the Form A Certification Statements. For the purposes of this ICR, these facilities represent "first-time filers."

6(e) Reasons for Change in Burden

The estimated burden described above differs from what is currently in OMB's inventory for alternate threshold reporting: 5,121 responses (Form A Certification Statements) and 463,670 burden hours. The burden estimated in this supporting statement differs from OMB's inventory as a result of adjustments to estimates of number of responses (from 5,121 responses to 5,000 responses), changes to subsequent year unit reporting burden estimates (from 30.2 to 9.3 burden hours per chemical certified on a Form A Certification Statement), and an adjustment for use of TRI-ME for those forms completed using TRI-ME. Table 5 summarizes the major program changes and adjustments that have been made over the last several years, as well as changes due to adjustments in this ICR supporting statement.

6(f) Burden Statement (To appear on Collection Instrument)

The annual public burden for this collection of information, which is approved under OMB Control No. 2070-0143, is estimated to average 13.7 hours for a facility that certifies one chemical per Form A Certification Statement. Responding to this information collection requires 1) determining whether a listed toxic chemical is eligible for certification under the alternate threshold, and 2) completing the Form A Certification Statement. The burden of determining eligibility for certification and associated recordkeeping is estimated to average 12.3 hours for each chemical that is certified. The burden of completing the Form A Certification Statement is estimated to average 1.4 hours, regardless of the number of chemicals being certified. The total burden per response is the combination of these two, and will vary depending on the number of listed toxic chemicals being certified.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. OEI-2003-0026, which is available for public viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room

B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Office of Environmental Information Docket is (202) 566-1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the docket ID number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. OEI-2003-0026 and OMB control number 2070-0143 in any correspondence.

The completed forms should be submitted in accordance with the instructions accompanying the form, or as specified in the corresponding regulation.

Table 5
Changes in Form A Burden

Activity - Explanation	# 1704 - Form A (OMB #2070-0143)		# 1784 - Industry Expansion (OMB #2070-0157)	
	Responses	Burden Hours	Responses	Burden Hours
1995 Program Change - Alternate Threshold: This rule established an alternate report for low reportable amounts and had its own ICR.	23,288	803,436	—	—
1995 Program Change - Petition Delistings: EPA granted several petitions to delist chemicals from the list of chemicals subject to reporting.	-2,241	-77,539	—	—
1996 Program Change - Petition Delistings:	-533	-18,442	—	—
1996 Adjustment - Form A ICR Renewal: Minor adjustment to burden.	—	+ 2,328	—	—
1997 Program Change - Industry Expansion: This rule expanded the list of industries subject to reporting under TRI.	—	—	+45,415	+2,704,085
1997 Adjustment - ICR Amendments: The burden hours for the industry expansion rule (with minor adjustment to burden) were incorporated into the Form R and Form A ICRs by OMB.	+7,121	+281,517	-45,415	-2,704,085
1998 Form A ICR. Program Change: Reporting change to allow submission of multiple chemicals on a single Form A.	-14,478	-82,264	—	—
1999 Adjustment - Form A ICR renewal	- 4,085	- 262,161	—	—
2000 Form A ICR Renewal	+5,721	-2,114	—	—
January 2003 Form A ICR Renewal - Incorporates accounting adjustments to more accurately reflect actual number of responses.	-9,672	-181,091	—	—
October 2003 Form A ICR Renewal - This request incorporates accounting adjustments to more accurately reflect reporting burden and actual number of responses.	-121	-289,820		
CURRENT TOTALS -----	5,000	173,850	0	0

ATTACHMENT A

RELEVANT STATUTES: EPCRA SECTION 313 AND PPA SECTION 6607

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT SECTION 313

UNITED STATES CODE

TITLE 42 - THE PUBLIC HEALTH AND WELFARE

CHAPTER 116 - EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

SUBCHAPTER I - EMERGENCY PLANNING AND NOTIFICATION

§ 11023. Toxic chemical release forms

(a) Basic requirement

The owner or operator of a facility subject to the requirements of this section shall complete a toxic chemical release form as published under subsection (g) of this section for each toxic chemical listed under subsection (c) of this section that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity established by subsection (f) of this section during the preceding calendar year at such facility. Such form shall be submitted to the Administrator and to an official or officials of the State designated by the Governor on or before July 1, 1988, and annually thereafter on July 1 and shall contain data reflecting releases during the preceding calendar year.

(b) Covered owners and operators of facilities

(1) In general

(A) The requirements of this section shall apply to owners and operators of facilities that have 10 or more full-time employees and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985) and that manufactured, processed, or otherwise used a toxic chemical listed under subsection (c) of this section in excess of the quantity of that toxic chemical established under subsection (f) of this section during the calendar year for which a release form is required under this section.

(B) The Administrator may add or delete Standard Industrial Classification Codes for purposes of subparagraph (A), but only to the extent necessary to provide that each Standard Industrial Code to which this section applies is relevant to the purposes of this section.

(C) For purposes of this section -

(i) The term "manufacture" means to produce, prepare, import, or compound a toxic chemical.

(ii) The term "process" means the preparation of a toxic chemical, after its manufacture, for distribution in commerce - (I) in the same form or

physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such chemical, or (II)

as part of an article containing the toxic chemical.

(2) Discretionary application to additional facilities

The Administrator, on his own motion or at the request of a Governor of a State (with regard to facilities located in that State), may apply the requirements of this section to the owners and operators of any particular facility that manufactures, processes, or otherwise uses a toxic chemical listed under subsection (c) of this section if the Administrator determines that such action is warranted on the basis of toxicity of the toxic chemical, proximity to other facilities that release the toxic chemical or to population centers, the history of releases of such chemical at such facility, or such other factors as the Administrator deems appropriate.

(c) Toxic chemicals covered

The toxic chemicals subject to the requirements of this section are those chemicals on the list in Committee Print Number 99-169 of the Senate Committee on Environment and Public Works, titled "Toxic Chemicals Subject to Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986" (42 U.S.C. 11023) (including any revised version of the list as may be made pursuant to subsection (d) or (e) of this section).

(d) Revisions by Administrator

(1) In general

The Administrator may by rule add or delete a chemical from the list described in subsection (c) of this section at any time.

(2) Additions

A chemical may be added if the Administrator determines, in his judgment, that there is sufficient evidence to establish any one of the following:

(A) The chemical is known to cause or can reasonably be anticipated to cause significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.

(B) The chemical is known to cause or can reasonably be anticipated to cause in humans -

(i) cancer or teratogenic effects, or

(ii) serious or irreversible - (I) reproductive dysfunctions, (II) neurological disorders, (III) heritable genetic mutations, or (IV) other chronic health effects.

(C) The chemical is known to cause or can reasonably be anticipated to cause,

because of -

- (i) its toxicity,
 - (ii) its toxicity and persistence in the environment, or
 - (iii) its toxicity and tendency to bioaccumulate in the environment, a significant adverse effect on the environment of sufficient seriousness, in the judgment of the Administrator, to warrant reporting under this section.
- The number of chemicals included on the list described in subsection © of this section on the basis of the preceding sentence may constitute in the aggregate no more than 25 percent of the total number of chemicals on the list. A determination under this paragraph shall be based on generally accepted scientific principles or laboratory tests, or appropriately designed and conducted epidemiological or other population studies, available to the Administrator.

(3) Deletions

A chemical may be deleted if the Administrator determines there is not sufficient evidence to establish any of the criteria described in paragraph (2).

(4) Effective date

Any revision made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any revision made on or after December 1 of any calendar year and before January 1 of the next calendar year shall take effect beginning with the calendar year following such next calendar year.

(e) Petitions

(1) In general

Any person may petition the Administrator to add or delete a chemical from the list described in subsection (c) of this section on the basis of the criteria in subparagraph (A) or (B) of subsection (d)(2) of this section. Within 180 days after receipt of a petition, the Administrator shall take one of the following actions:

- (A) Initiate a rulemaking to add or delete the chemical to the list, in accordance with subsection (d)(2) or (d)(3) of this section.
- (B) Publish an explanation of why the petition is denied.

(2) Governor petitions

A State Governor may petition the Administrator to add or delete a chemical from the list described in subsection (c) of this section on the basis of the criteria in subparagraph (A), (B), or (c) of subsection (d)(2) of this section. In the case of such a petition from a State Governor to delete a chemical, the petition shall be treated in

the same manner as a petition received under paragraph (1) to delete a chemical. In the case of such a petition from a State Governor to add a chemical, the chemical will be added to the list within 180 days after receipt of the petition, unless the Administrator -

(A) initiates a rulemaking to add the chemical to the list, in accordance with subsection (d)(2) of this section, or

(B) publishes an explanation of why the Administrator believes the petition does not meet the requirements of subsection (d)(2) of this section for adding a chemical to the list.

(f) Threshold for reporting

(1) Toxic chemical threshold amount

The threshold amounts for purposes of reporting toxic chemicals under this section are as follows:

(A) With respect to a toxic chemical used at a facility, 10,000 pounds of the toxic chemical per year.

(B) With respect to a toxic chemical manufactured or processed at a facility -
(i) For the toxic chemical release form required to be submitted under this section on or before July 1, 1988, 75,000 pounds of the toxic chemical per year.

(ii) For the form required to be submitted on or before July 1, 1989, 50,000 pounds of the toxic chemical per year.

(iii) For the form required to be submitted on or before July 1, 1990, and for each form thereafter, 25,000 pounds of the toxic chemical per year.

(2) Revisions

The Administrator may establish a threshold amount for a toxic chemical different from the amount established by paragraph (1). Such revised threshold shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section. The amounts established under this paragraph may, at the Administrator's discretion, be based on classes of chemicals or categories of facilities.

(g) Form

(1) Information required

Not later than June 1, 1987, the Administrator shall publish a uniform toxic chemical release form for facilities covered by this section. If the Administrator does not publish such a form, owners and operators of facilities subject to the requirements of this section shall provide the information required under this subsection by letter

postmarked on or before the date on which the form is due. Such form shall -

(A) provide for the name and location of, and principal business activities at, the facility;

(B) include an appropriate certification, signed by a senior official with management responsibility for the person or persons completing the report, regarding the accuracy and completeness of the report; and

(C) provide for submission of each of the following items of information for each listed toxic chemical known to be present at the facility:

(i) Whether the toxic chemical at the facility is manufactured, processed, or otherwise used, and the general category or categories of use of the chemical.

(ii) An estimate of the maximum amounts (in ranges) of the toxic chemical present at the facility at any time during the preceding calendar year.

(iii) For each waste stream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved by such methods for that waste stream.

(iv) The annual quantity of the toxic chemical entering each environmental medium.

(2) Use of available data

In order to provide the information required under this section, the owner or operator of a facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or, where such data are not readily available, reasonable estimates of the amounts involved. Nothing in this section requires the monitoring or measurement of the quantities, concentration, or frequency of any toxic chemical released into the environment beyond that monitoring and measurement required under other provisions of law or regulation. In order to assure consistency, the Administrator shall require that data be expressed in common units.

(h) Use of release form

The release forms required under this section are intended to provide information to the Federal, State, and local governments and the public, including citizens of communities surrounding covered facilities. The release form shall be available, consistent with section 11044(a) of this title, to inform persons about releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards; and for other similar purposes.

(I) Modifications in reporting frequency

(1) In general

The Administrator may modify the frequency of submitting a report under this section, but the Administrator may not modify the frequency to be any more often than annually. A modification may apply, either nationally or in a specific geographic area, to the following:

- (A) All toxic chemical release forms required under this section.
- (B) A class of toxic chemicals or a category of facilities.
- (C) A specific toxic chemical.
- (D) A specific facility.

(2) Requirements

A modification may be made under paragraph (1) only if the Administrator -

- (A) makes a finding that the modification is consistent with the provisions of subsection (h) of this section, based on -
 - (i) experience from previously submitted toxic chemical release forms, and
 - (ii) determinations made under paragraph (3), and
- (B) the finding is made by a rulemaking in accordance with section 553 of title 5.

(3) Determinations

The Administrator shall make the following determinations with respect to a proposed modification before making a modification under paragraph (1):

- (A) The extent to which information relating to the proposed modification provided on the toxic chemical release forms has been used by the Administrator or other agencies of the Federal Government, States, local governments, health professionals, and the public.
- (B) The extent to which the information is (i) readily available to potential users from other sources, such as State reporting programs, and (ii) provided to the Administrator under another Federal law or through a State program.
- (C) The extent to which the modification would impose additional and unreasonable burdens on facilities subject to the reporting requirements under this section.

(4) 5-year review

Any modification made under this subsection shall be reviewed at least once every 5 years. Such review shall examine the modification and ensure that the requirements of paragraphs (2) and (3) still justify continuation of the modification. Any change to a modification reviewed under this paragraph shall be made in accordance with this subsection.

(5) Notification to Congress

The Administrator shall notify Congress of an intention to initiate a rulemaking for a modification under this subsection. After such notification, the Administrator shall delay initiation of the rulemaking for at least 12 months, but no more than 24 months, after the date of such notification.

(6) Judicial review

In any judicial review of a rulemaking which establishes a modification under this subsection, a court may hold unlawful and set aside agency action, findings, and conclusions found to be unsupported by substantial evidence.

(7) Applicability

A modification under this subsection may apply to a calendar year or other reporting period beginning no earlier than January 1, 1993.

(8) Effective date

Any modification made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any modification made on or after December 1 of any calendar year and before January 1 of the next calendar year shall take effect beginning with the calendar year following such next calendar year.

(j) EPA management of data

The Administrator shall establish and maintain in a computer data base a national toxic chemical inventory based on data submitted to the Administrator under this section. The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost reimbursable basis.

(k) Report

Not later than June 30, 1991, the Comptroller General, in consultation with the Administrator and appropriate officials in the States, shall submit to the Congress a report including each of the following:

- (1) A description of the steps taken by the Administrator and the States to implement the requirements of this section, including steps taken to make information collected under this section available to and accessible by the public.
- (2) A description of the extent to which the information collected under this section has been used by the Environmental Protection Agency, other Federal agencies, the States, and the public, and the purposes for which the information has been used.

(3) An identification and evaluation of options for modifications to the requirements of this section for the purpose of making information collected under this section more useful.

(I) Mass balance study

(1) In general

The Administrator shall arrange for a mass balance study to be carried out by the National Academy of Sciences using mass balance information collected by the Administrator under paragraph (3). The Administrator shall submit to Congress a report on such study no later than 5 years after October 17, 1986.

(2) Purposes

The purposes of the study are as follows:

- (A) To assess the value of mass balance analysis in determining the accuracy of information on toxic chemical releases.
- (B) To assess the value of obtaining mass balance information, or portions thereof, to determine the waste reduction efficiency of different facilities, or categories of facilities, including the effectiveness of toxic chemical regulations promulgated under laws other than this chapter.
- (C) To assess the utility of such information for evaluating toxic chemical management practices at facilities, or categories of facilities, covered by this section.
- (D) To determine the implications of mass balance information collection on a national scale similar to the mass balance information collection carried out by the Administrator under paragraph (3), including implications of the use of such collection as part of a national annual quantity toxic chemical release program.

(3) Information collection

(A) The Administrator shall acquire available mass balance information from States which currently conduct (or during the 5 years after October 17, 1986 initiate) a mass balance-oriented annual quantity toxic chemical release program. If information from such States provides an inadequate representation of industry classes and categories to carry out the purposes of the study, the Administrator also may acquire mass balance information necessary for the study from a representative number of facilities in other States.

(B) Any information acquired under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that the information (or a particular part thereof) to which the Administrator or any officer, employee, or representative has access under this section if made public would divulge information entitled to protection under section 1905 of title 18,

such information or part shall be considered confidential in accordance with the purposes of that section, except that such information or part may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this section.

(C) The Administrator may promulgate regulations prescribing procedures for collecting mass balance information under this paragraph.

(D) For purposes of collecting mass balance information under subparagraph (A), the Administrator may require the submission of information by a State or facility.

(4) Mass balance definition

For purposes of this subsection, the term "mass balance" means an accumulation of the annual quantities of chemicals transported to a facility, produced at a facility, consumed at a facility, used at a facility, accumulated at a facility, released from a facility, and transported from a facility as a waste or as a commercial product or byproduct or component of a commercial product or byproduct.

POLLUTION PREVENTION ACT SECTION 6607

**UNITED STATES CODE
TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 133 - POLLUTION PREVENTION**

§ 13106. Source reduction and recycling data collection

(a) Reporting requirements

Each owner or operator of a facility required to file an annual toxic chemical release form under section 11023 of this title for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceding calendar year. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual toxic chemical release form filed by the owner or operator under section 11023(c) of this title. This section shall take effect with the annual report filed under section 11023 of this title for the first full calendar year beginning after November 5, 1990.

(b) Items included in report

The toxic chemical source reduction and recycling report required under subsection (a) of this section shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

- . (1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The quantity reported shall not include any amount reported under paragraph (7). When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made based on best engineering judgment
- (2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year, the percentage change from the previous year, and the process of recycling used.
- (3) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate.
 - (A) Equipment, technology, process, or procedure modifications.
 - (B) Reformulation or redesign of products.
 - (C) Substitution of raw materials.
 - (D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.
- (4) The amount expected to be reported under paragraph (1) and (2) for the two

calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).

(5) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical. The Administrator is encouraged to develop production indexes to accommodate individual industries for use on a voluntary basis.

(6) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

(7) The amount of any toxic chemical released into the environment which resulted from a catastrophic event, remedial action, or other one-time event, and is not associated with production processes during the reporting year.

(8) The amount of the chemical from the facility which is treated (at the facility or elsewhere) during such calendar year and the percentage change from the previous year. For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c) SARA provisions

The provisions of sections 11042, 11045(c), and 11046 of this title shall apply to the reporting requirements of this section in the same manner as to the reports required under section 11023 of this title. The Administrator may modify the form required for purposes of reporting information under section 11023 of this title to the extent he deems necessary to include the additional information required under this section.

(d) Additional optional information

Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other pollution control techniques in earlier years.

(e) Availability of data

Subject to section 11042 of this title, the Administrator shall make data collected under this section publicly available in the same manner as the data collected under section 11023 of this title.

ATTACHMENT B

**MAJOR REGULATIONS SPECIFIC TO THE FORM A
CERTIFICATION STATEMENT:
40 CFR §372.10, §372.27 AND §372.95**

TITLE 40--PROTECTION OF ENVIRONMENT

CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY

PART 372--TOXIC CHEMICAL RELEASE REPORTING: COMMUNITY RIGHT-TO-KNOW

Subpart A--General Provisions

Sec. 372.10 Recordkeeping.

(d) Each owner or operator who determines that the owner operator may apply the alternate threshold as specified under Sec. 372.27(a) must retain the following records for a period of 3 years from the date of the submission of the certification statement as required under Sec. 372.27(b):

- (1) A copy of each certification statement submitted by the person under Sec. 372.27(b).
- (2) All supporting materials and documentation used by the person to make the compliance determination that the facility or establishment is eligible to apply the alternate threshold as specified in Sec. 372.27.
- (3) Documentation supporting the certification statement submitted under Sec. 372.27(b) including:
 - (i) Data supporting the determination of whether the alternate threshold specified under Sec. 372.27(a) applies for each toxic chemical.
 - (ii) Documentation supporting the calculation of annual reportable amount, as defined in Sec. 372.27(a), for each toxic chemical, including documentation supporting the calculations and the calculations of each data element combined for the annual reportable amount.
 - (iii) Receipts or manifests associated with the transfer of each chemical in waste to off-site locations.

Subpart B--Reporting Requirements

Sec. 372.27 Alternate threshold and certification.

(a) With respect to the manufacture, process, or otherwise use of a toxic chemical, the owner or operator of a facility may apply an alternate threshold of 1 million pounds per year to that chemical if the owner or operator calculates that the facility would have an annual reportable amount of that toxic chemical not exceeding 500 pounds for the combined total quantities released at the facility, disposed within the facility, treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the facility to off-site locations for the purpose of recycle, energy recovery, treatment, and/or disposal. These volumes correspond to the sum of amounts reportable for data elements on EPA Form R (EPA Form 9350-1; Rev. 12/4/93) as Part II column B or sections 8.1 (quantity released), 8.2 (quantity used for energy recovery on-site), 8.3 (quantity used for energy recovery off-site), 8.4 (quantity recycled on-site), 8.5 (quantity recycled off-site), 8.6 (quantity treated on-site), and 8.7 (quantity treated off-site).

(b) If an owner or operator of a facility determines that the owner or operator may apply the alternate reporting threshold specified in paragraph (a) of this section for a specific toxic chemical, the owner or operator is not required to submit a report for that chemical under Sec. 372.30, but must submit a certification statement that contains the information required in Sec. 372.95. The owner or operator of the facility must also keep records as specified in Sec. 372.10(d).

(c) Threshold determination provisions of Sec. 372.25 and exemptions pertaining to threshold determinations in Sec. 372.38 are applicable to the determination of whether the alternate threshold has been met.

(d) Each certification statement under this section for activities involving a toxic chemical that occurred during a calendar year at a facility must be submitted to EPA and to the State in which the facility is located on or before July 1 of the next year.

Subpart E--Forms and Instructions

Sec. 372.95 Alternate threshold certification and instructions.

(a) Availability of the alternate threshold certification statement and instructions. Availability of the alternate threshold certification statement and instructions is the same as provided in Sec. 372.85(a) for availability of the reporting form and instructions.

(b) Alternate threshold certification statement elements. The following information must be reported on an alternate threshold certification statement pursuant to Sec. 372.27(b):

- (1) Reporting year.
- (2) An indication of whether the chemical identified is being claimed as trade secret.
- (3) Chemical name and CAS number (if applicable) of the chemical, or the category name.
- (4) Signature of a senior management official certifying the following: pursuant to 40 CFR 372.27, "I hereby certify that to the best of my knowledge and belief for the toxic chemical listed in this statement, the annual reportable amount, as defined in 40 CFR 372.27(a), did not exceed 500 pounds for this reporting year and that the chemical was manufactured, or processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year."
- (5) Date signed.
- (6) Facility name and address.
- (7) Mailing address of the facility if different than paragraph (b)(6) of this section.
- (8) Toxic chemical release inventory facility identification number if known.
- (9) Name and telephone number of a technical contact.
- (10) The four-digit SIC codes for the facility or establishments in the facility.
- (11) Latitude and longitude coordinates for the facility.
- (12) Dun and Bradstreet Number of the facility.
- (13) EPA Identification Number(s) (RCRA) I.D. Number(s) of the facility.
- (14) Facility NPDES Permit Number(s).
- (15) Underground Injection Well Code (UIC) I.D. Number(s) of the facility.
- (16) Name of the facility's parent company.
- (17) Parent company's Dun and Bradstreet Number.

ATTACHMENT C
FORM A CERTIFICATION STATEMENT (EPA FORM #9350-2)

(A .pdf version of this form can be downloaded at www.epa.gov/tri/report/form_a.pdf)

ATTACHMENT D
RESPONSE TO PUBLIC COMMENTS FOR ICR RENEWAL FOR THE
FORM A CERTIFICATION STATEMENT (EPA Form #9350-2)

EPA Response to Public Comments for EPA Public Docket OEI-2003-0026

On Tuesday, July 1, 2003, Federal Register (FR) notices were published that began the Information Collection Request (ICR) renewal process for the TRI Reporting Form R (68 FR 39074) and the Form A Certification Statement (68 FR 39071). The TRI Program is seeking OMB approval in compliance with the Paperwork Reduction Act (PRA) for these two collection activities that are due to expire on October 31, 2003. The EPA docket for this action, OEI-2003-0026 received 8 comment submissions. The commenters and their corresponding docket identifiers are listed in a table at the end of this comment response document. Docket identification numbers -0006 and -0008 are exact duplicates of comments submitted to the Form R ICR docket (OEI-2003-0025) and have been reviewed and responded to as part of the Form R Response to Public Comments document.

The comments submitted in response to EPA's request for renewal of the ICR for the Form A Certification Statement are outlined below. Comments submitted for the Form A Certification Statement ICR renewal having to do with Form A economic burden are included in the Response to Comments for Form R.

General Comments: The commenters suggested a number of changes to the TRI program that they believed would reduce the burden associated with reporting. Expansion of the eligibility to use the Form A was a common suggestion.

Some Specific Comments:

- Expand use and eligibility for using Form A Certification Statement (-0009, -0012, -0013, -0014)
- Increase 500 lb. threshold to 5,000 lbs. (-0009, -0012, -0014)
- Exempt "zero release" reporters (-0009)
- Raise alternate threshold amount from 1 million to 10 million pounds (-0009, -0014)
- Remove energy recovery and recycling from reportable amount calculation (-0009, 0012)
- Institute "Enhanced Form A" for small releasers and PBT chemicals (-0009)
- Restore Form A for lead and other PBT chemicals (-0013, -0014)
- Institute a Form NS ("No substantial Revision Certification" (-0009)
- Have the states accept online submission and certification to save time (-0005)

Response: Most of the suggested changes were raised in the public comments submitted in response to the proposed Form R Information Collection Request renewal and have been responded to in that documents which will be included in the EPA docket under OEI-2003-0025.

Most of the issues included in the list above will be addressed in an issue paper for an upcoming stakeholder dialogue on how to reduce TRI reporting burden. During the

stakeholder process, EPA will solicit comments on these and any other suggestions that stakeholders may have for reducing the reporting burden of the TRI program. EPA welcomes commenters to raise these and any other Form A burden reduction measures during the stakeholder dialogue process.

Form A ICR Commenters

Commenter	OEI E-Docket Identification Number
John Parker	OEI-2003-0026-0003 (comment refers to the Form R ICR renewal and is reviewed as part of that Response to Comments document)
Anonymous	OEI-2003-0026-0005
Center for Regulatory Effectiveness	OEI-2003-0026-0006
International Dairy Foods Association	OEI-2003-0026-0008
Office of Advocacy of the U.S. Small Business Administration	OEI-2003-0026-0009
Consumer Specialty Products Association	OEI-2003-0026-0012
IPC - Association Connecting Electronics Industries	OEI-2003-0026-0013
Synthetic Organic Chemical Association (SOCMA)	OEI-2003-0026-0014